

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**RICHARD HARDWIN,**  
*Plaintiff,*

**v.**

**COMMISSIONER OF THE SOCIAL  
SECURITY ADMINISTRATION,**  
*Defendant.*

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**NO. EP-24-CV-00403-LS-MAT**

**REPORT AND RECOMMENDATION TO REVERSE AND REMAND  
FOR FURTHER ADMINISTRATIVE PROCEEDINGS**

The Court considers Commissioner’s “Unopposed Motion to Reverse with Remand and Enter Judgment” (“Motion”), filed on May 8, 2025. Mot. to Remand, ECF No. 17. Commissioner asks the Court to reverse Administrative Law Judge (“ALJ”) Richard M. Exnicios’s decision and remand the case to the Social Security Administration for further proceedings. *Id.* 1; Answer 24–37, ECF No. 9-2.<sup>1</sup> On May 8, 2025, United States District Judge Leon Schydlower referred this case to the undersigned for review and recommendation pursuant to 28 U.S.C. § 636(b)(1) and Rule 1 of Appendix C to the Local Rules of the United States District Court for the Western District of Texas. After careful consideration, the Court **RECOMMENDS** that the Motion be **GRANTED**.

Sentence four of 42 U.S.C. § 405(g) provides that a district court “shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” *See* 42 U.S.C. § 405(g). The U.S. Supreme Court and U.S. district courts

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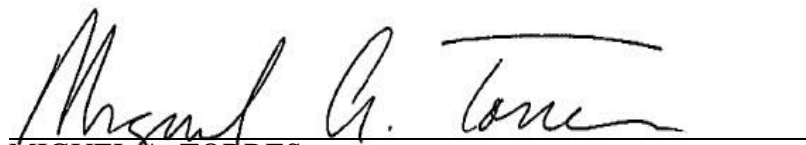
<sup>1</sup> Commissioner states that the ALJ’s decision was dated March 12, 2024, but the record reflects that the decision occurred on April 23, 2024. Mot. to Remand 1; Answer 37.

in the Fifth Circuit affirm the district court's authority to reverse and remand the ALJ's decision pursuant to the fourth sentence of 42 U.S.C. § 405(g). *See Melkonyan v. Sullivan*, 501 U.S. 89, 99–100 (1991) (“Under sentence four, a district court may remand in conjunction with a judgment affirming, modifying, or reversing the Secretary’s decision.”); *Howard v. Astrue*, No. A-11-CA-189 AWA, 2011 WL 13324112, at \*1 (W.D. Tex. Sept. 27, 2011), *report and recommendation adopted*, No. A-11-CA-189-SS, 2012 WL 13136122 (W.D. Tex. Apr. 12, 2012) (citing *Shalala v. Schaefer*, 509 U.S. 292, 296 (1993)) (“In reviewing final agency decisions concerning Social Security benefits, a district court may remand a case to the Commissioner only under sentence four or sentence six of 42 U.S.C. § 405(g).”).

The Court finds that a sentence four remand under 42 U.S.C. § 405(g) is appropriate in this case to ensure that the Social Security Administration properly considers Plaintiff's claim of disability. A district court remanding a case pursuant to sentence four of 42 U.S.C. § 405(g) is permitted to enter final judgment in the case. *See Istre v. Apfel*, 208 F.3d 517, 519 (5th Cir. 2000) (quoting *Melkonyan*, 501 U.S. at 98) (“The fourth sentence of § 405(g) authorizes a court to enter a judgment affirming, modifying, or reversing the decision of the Secretary....”).

It is therefore **RECOMMENDED** that this cause be **REVERSED** and **REMANDED** for further action by the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). It is **FURTHER RECOMMENDED** that the District Judge **ENTER JUDGMENT** on behalf of Plaintiff.

**SIGNED** and **ENTERED** this 12th day of May 2025.

  
MIGUEL A. TORRES  
UNITED STATES MAGISTRATE JUDGE

**NOTICE**

**FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THE FOREGOING REPORT, WITHIN FOURTEEN DAYS OF SERVICE OF SAME, MAY BAR DE NOVO DETERMINATION BY THE DISTRICT JUDGE OF AN ISSUE COVERED HEREIN AND SHALL BAR APPELLATE REVIEW, EXCEPT UPON GROUNDS OF PLAIN ERROR, OF ANY UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS AS MAY BE ACCEPTED OR ADOPTED BY THE DISTRICT COURT.**